

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERROLL FLANIGAN, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

THE WARRANTY GROUP, INC., a Delaware
corporation, and AMERICAN PROTECTION PLANS
LLC, d/b/a American Residential Warranty, a Florida
limited liability company,

Defendants.

No. 14 C 1261

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant The Warranty Group, Inc., through its attorneys, Winston & Strawn LLP, hereby gives notice of its removal to this Court of Case No. 2014-CH-956 from the Circuit Court of Cook County, Illinois. In support of removal, Defendant The Warranty Group states:

1. On January 16, 2014, Plaintiff Erroll Flanigan (“Plaintiff”) filed a Summons and Class Action Complaint in the Circuit Court of Cook County, Illinois, seeking damages for The Warranty Group’s and American Protection Plans LLC, d/b/a American Residential Warranty’s (collectively “Defendants”) alleged violation of the federal Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.* Pursuant to 28 U.S.C. § 1446(a), a complete copy of the state court file in this action is attached hereto as Exhibit 1.

2. American Protection Plans LLC, d/b/a American Residential Warranty, obtained a copy of the Summons and the Class Action Complaint on January 21, 2014. The Warranty Group, Inc. obtained a copy of the Summons and the Class Action Complaint on January 23, 2014. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed because it has been filed within 30 days after Defendants' receipt of the Summons and Class Action Complaint.

4. Plaintiff's Class Action Complaint alleges two counts against Defendants: one under section 227(b)(1)(A)(iii) of the TCPA, 47 U.S.C. § 227(b)(1)(A)(iii); and one under section 227(c)(5) of the TCPA, 47 U.S.C. § 227(c)(5). (Class Action Compl. ¶¶ 36-53.) Plaintiff seeks class action status on all counts. (*Id.* ¶¶ 37-43, 49-53.)

5. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1441 because it involves a federal question.

6. The Seventh Circuit Court of Appeals has squarely held that the TCPA does not provide exclusive jurisdiction to state courts, and, therefore, TCPA actions filed in state court can be removed to federal court under § 1441, regardless of the parties' citizenship or residence. *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 451 (7th Cir. 2005).

7. All defendants consent to the removal of this civil action to this Court.

8. Pursuant to 28 U.S.C. §§ 1441 and 1446, removal of the state court action to this Court is appropriate.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on Plaintiff and filed with the Clerk of the Cook County Circuit Court, Cook County, Illinois.

WHEREFORE, Defendant The Warranty Group, Inc., hereby removes the state court action to this Court.

Dated: February 20, 2014

Respectfully submitted,

THE WARRANTY GROUP, INC.

By: /s/ Norman K. Beck

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CERTIFICATE OF SERVICE

The undersigned counsel for Defendant The Warranty Group, Inc. hereby certifies that on this 20th day of February, 2014, I caused a copy of the foregoing Notice of Removal to be mailed from my office at 35 West Wacker Drive, Chicago, Illinois, as designated below, to the following addresses:

Jay Edelson (via U.S. Mail)
Rafey S. Balabanian
Ari Scharg
John C. Ochoa
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/s/David Luger
David Luger